

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska

Minutes
May 3-4, 2004

1. General

- A. Call to Order and Roll Call.** The Board of Public Accountancy was called to order at 8:34 a.m. on Monday, May 3, 2004 with Chair William Gaines, CPA presiding. The roll was called with the following members present: William Gaines, Dean Graf, William Nuckolls, Jim Titus, Richard Zacharia, Doug Skiles, and Anne Fuhrman. Member Michelle Thornburg was absent. Also present were Executive Director Dan Sweetwood, Staff Kelly Ebert and Jo Lowe. Visitors present were Kathleen Grafton, Gene Garrelts, and Keith Graeve. The meeting was held at the Board Office at 140 N. 8th Street, Suite 290, Lincoln, Nebraska.
- B. Approval of Agenda.** Item 3-B, the March disbursements were postponed to Tuesday, May 4 so they could be reviewed. Moved by Zacharia, seconded by Nuckolls, to approve the agenda for the May 3-4, 2004 meeting as amended. On a roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #1 carried.
- C. Approval of minutes for the March 21-22, 2004 meeting.** Moved by Graf, seconded by Fuhrman, to approve the minutes. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #2 carried.
- D. Approval of minutes for the April 20, 2004 meeting.** Moved by Nuckolls, seconded by Zacharia, to approve the minutes. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #3 carried.

2. Public Comment Period

Time was allowed on the agenda for members of the public to address the Board with comments. Kathleen Grafton addressed the Board about meeting the educational requirements for a certificate. Gene Garrelts and Keith Graeve addressed the Board regarding their request for a change in firm name in a letter dated April 15, 2004.

3. Consent Agenda

- A. Published Notice of Meeting.** Moved by Zacharia, seconded by Titus, to approve the consent agenda. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #4 carried.
- B. Approval of Disbursements.** Item 3-B, the March disbursements were postponed to Tuesday, May 4 so they could be reviewed. Executive Director Sweetwood discussed the Journal Star subscription. Other Board subscriptions will be reviewed.
- C. Review of Board Budget Status Report.** The budget status report was provided.
- D. Office Management Report.** There was no Office Management Report presented.

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4. Report of the Chair

- A. Executive Director Evaluation.** (This item was postponed to follow the Closed Session.) Executive Director Sweetwood reported that staff evaluations have been completed. The Executive Committee met with the Executive Director to complete his evaluation, and noted that they were pleased with his job performance. Motion out of Committee to approve a 2% salary increase effective June 1, 2004 for the Executive Director. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #8 carried.
- B. Future Board Meetings.** The July Board meeting was moved to July 27-28, 2004. Board members were also alerted to the possibility of two June meetings to work on the Statute rewrite.
- C. Board Representation at the Unauthorized Practice of Law Hearing.** Member Fuhrman reviewed the letter from a CPA requesting Board representation at the hearing, May 12th, 1:30 p.m., Capitol Room 1305. Moved by Zacharia, seconded by Fuhrman, that the Board Chair and Vice Chair attend the hearing to endorse the position of the Nebraska Society of CPA's. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, and Zacharia voted aye. Member Titus voted nay. Member Thornburg was absent. Motion #5 carried.
- D. Report on To Do List.** There was no additional report.
- E. Other Misc. Items.** There were no miscellaneous items.

CLOSED MEETING

Closed Meeting. Moved by Graf, seconded by Nuckolls, that the Board go into closed session at 10:37 a.m., for the purposes of litigation, personnel, and enforcement issues. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #6 carried.

Return to Open Meeting. Moved by Graf, seconded by Titus, that the Board return to open session at 12:45 p.m. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #7 carried.

5. Report of the Enforcement Committee

- A. Rodney Zwygart Appeal.** No further information on the appeal has been received.
- B. John Troshynski Appeal.** No further information on the appeal has been received.
- C. Open Case Update.** Committee Chair Gaines reviewed the Enforcement summary. Complaint # 99 00015 will be corrected in the summary to "Recommend closure upon completion of required CPE by June 15, 2004." Complaints #04-08 & 04-09 will be acted upon Tuesday, May 4, 2004.
- D. Recommend Closure of Complaints.** Motion out of Committee to close complaint's #0102024, and 0102025, 04-05 & 04-06 and to notify complainant and Certified Public Accountant (CPA) of findings with notation placed in their files for future reference. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #9 carried.

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- F. Report on To Do list.** Staff is working to resolve open complaints.
- G. Other Miscellaneous items.** There were no miscellaneous items.

6. Report of the Licensing Committee

- A. Ratification of initial permits to practice issued, certificates issued, firm permits issued, and Inactive Retired application.** Motion out of Committee to ratify all certificates issued by exam and reciprocity, all initial permits to practice, firm permits issued from March 10 to April 10, 2004. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #10 carried. Motion out of Committee to ratify all certificates issued by exam and reciprocity, all initial permits to practice, firm permits issued from April 10 to April 30, 2004. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #11 carried.
- B. Reinstatements to Active Permit.** The Active Permit Reinstatements were reviewed by the Continuing Professional Education (CPE) Committee for completion of 120 hours and forwarded to the Licensing Committee. Recommendation to refer back to CPE committee for formal approval.
- C. Inactive Retired Affidavits.** Motion out of committee to approve all inactive retired affidavits. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #12 carried.
- D. Report of the Committee.** Committee Chair Titus gave the Committee report.
 - 1.) Update on NASBA Licensing.** Staff was requested to provide for the next Licensing Committee meeting:
 - a.) a budget with costs of one person becoming licensed in Nebraska under the current process compared to the NASBA proposal;
 - b.) the effect on NBPA budget and staffing with reduction in fees, and
 - c.) the ability under current law to raise fees to offset losses.Concern was expressed regarding the "control" of licensing issue and the statutory obligation of the Board.
 - 2.) Reciprocal Certificate Issuance Prior to Board Approval.** Motion out of Committee to allow reciprocal certificates to be issued to applicants pending Board approval at the next regularly scheduled Board meeting. On roll call vote, Members Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Gaines voted nay. Member Thornburg was absent. Motion #13 carried.
- E. Certificate Holders with No Activity for Three Years.** Motion out of Committee to conduct formal hearings concerning the list of 216 certificates where there has been no action for three years. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Thornburg was absent. Motion #14 carried.
- F. Deloitte Firm Name Issue.** This item was moved to Tuesday, May 4, 2004, 9:00 a.m.

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- G. Request for Firm Name Change by Graeve Garrelts Denham Bruce LLC.** The Board returned the matter to the Licensing Committee for recommendation. Staff was directed to gather archived information on other firms that were licensed with non-CPA names.
- H. Report of To Do List.** There was no additional report.
- I. Other Misc. Items.**
Request to Surrender Certificate. Committee Chair Titus requested that Staff check with Iowa and other agencies regarding permitting/disciplinary action of the individual who requested to voluntarily surrender his certificate. Staff was directed to contact the applicant and report that we are considering the request and will notify him shortly.

7. Report of the Legislative Committee

- A. Proposed Legislative Re-write Status.** Chair Gaines gave the committee report. Future meetings of the Nebraska Society of CPA's and Board of Accountancy will be scheduled in an effort to continue to move the rewrite forward. He also suggested that Board members plan for two meetings in June to review discussions between the Nebraska Society of CPA's and Board of Accountancy representatives.
- B. Report on the To Do list.** There was no report on the To Do list.
- C. Miscellaneous Items.** There were no additional items reported.

8. Report of the Education and Exam Committee

- A. Report of the Committee.** Staff Member Jo Lowe presented the committee report.
- 1.) Computer Based Test (CBT) Update. Staff checks the Gateway Database each Monday and requests activity reports.
 - 2.) Educational Advisory Committee (EAC). An EAC conference call is set for May 26th, 3:00 p.m.
 - 3.) Educational Course Approvals. Accounting Programs update on CPA CBT information. State educational institutions have been updated with CPA CBT information.
- B. Update on Educational Courses and Requests for Approval.** Motion out of Committee to approve the courses from the following institutions:
- 1.) Wayne State.
 - 2.) Dana College.
 - 3.) Chadron State.
 - 4.) UNO.
 - 5.) Bellevue University.
 - 6.) Nebraska Wesleyan University.
- On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, and Skiles voted aye. Members Thornburg, Titus and Zacharia were absent. Motion #15 carried.
- C. CPAES Issues.**
- 1.) National Candidate Database. The Board reviewed the Activity Report.
 - 2.) Educational Issues/Review of Applicant's Transcripts. The Board reviewed the Committee recommendations and agreed with all recommendations of the E&E Committee. The Board

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referred Ms. Grafton back to the E & E committee and to assist her if possible and at this time not to allow Mr. Howerton's application to sit for the CPA Examination. The issue involving Mr. Lors has been satisfactorily resolved.

- E. Update on Chapter 6 & 9 Rules Revisions.** Proposed Rules within Chapters 6 & 9 have been submitted to the Governors Policy Research office for approval.
- F. NASBA Reciprocal Applicant Review of Education Contract Approval.** Motion out of committee to approve the NASBA Reciprocal contract. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, and Skiles voted aye. Members Thornburg, Titus and Zacharia were absent. Motion #16 carried.
- E. NASBA Computer Based Testing (CBT) Contract Approval.** The contract was reviewed by the Attorney General's office. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, and Skiles voted aye. Members Thornburg, Titus and Zacharia were absent. Motion #17 carried.
- G. Report on To Do List.** There were no additional items reported.
- H. Other Misc. Items.** There were no other miscellaneous items.

9. Report of the Quality Enhancement Program Committee

- A. Report of the Committee.** Committee Chair Graf reported on the Committee meeting. Staff member Kelly Ebert reported that CPA's are volunteering to serve as reviewers.
- B. Report on the To Do list.** There was no additional report.
- C. Other Miscellaneous Items.** There were no other miscellaneous items.

10. Report of the Continuing Professional Education Committee (CPE)

- A. Report of the Committee.** Committee Chair Nuckolls presented the report. The Committee approved 63 Audited 2004 CPE Reports, and the list of requested extensions. Staff will mail acceptance letters to those selected for the audit. They discussed the sponsor approval process. Reinstatements were forwarded to the Licensing Committee for approval.
- B. Ratification of Approved CPE Course Evaluations.** Motion out of Committee to ratify the CPE staff program evaluations. Over 99 % of courses requested for approval have been approved. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, and Skiles voted aye. Members Thornburg, Titus and Zacharia were absent. Motion #18 carried.
- C. Update on Individuals with CPE Deficiencies.** Motion out of Committee to refer the deficiency list to the Licensing Committee. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, and Skiles voted aye. Members Thornburg, Titus and Zacharia were absent. Motion #19 carried.
- D. Report on To Do list.** A reminder postcard will be sent to those renewing in 2005 regarding the ethics hours requirement.
- G. Other Miscellaneous Items.** The Committee will discuss whether the AICPA Ethics Exam will count toward CPE ethics hours for permit renewal. The Committee formally approved the Reinstatements relative to the required 120 hours of CPE and referred them to the Licensing Committee for final approval.

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11. Recess

The Board recessed at 2:55 on Monday, May 3, 2004.

12. General

A. Call to Order and Roll Call. The Board of Accountancy was called to order at 8:35 a.m. on Tuesday, May 4, 2004 with Chair William Gaines, CPA presiding. The roll was called with the following members present: William Gaines, Dean Graf, Jim Titus, William Nuckolls, Doug Skiles, and Anne Fuhrman. Members absent were Michelle Thornburg and Richard Zacharia. Also present were Executive Director Dan Sweetwood and Office Staff Jo Lowe and Kelly Ebert.

The meeting was held at the Board Office at 140 N. 8th Street, Suite 290, Lincoln, Nebraska.

3. Consent Agenda

B. Approval of Disbursements. Consent agenda item approval of disbursements was carried over from Monday. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Titus, and Skiles voted aye. Members Thornburg and Zacharia were absent. Motion #20 carried.

5. Report of the Enforcement Committee

B. Open Case Update. Motion out of Committee to recommend Cases 04-08 and 04-09 move to formal hearing and to direct Mr. Robert Gruit, Board Attorney, to prepare and file a complaint against the named CPA for alleged violation of:

- Law: Public Accountancy Act 1-137 (2) Dishonesty, fraud, gross negligence in the practice of public accountancy;
- Public Accountancy Act 1-137 (4) Violation of a rule of professional conduct adopted and promulgated by the Board under the authority granted by the Act;
- Rules Title 288: Chapter 5 004.05 Other professional standards. A licensee, in the performance of management advisory services or accounting and review services, shall conform to the professional standards applicable to such services.
- Rules Title 288: Chapter 5 007.01 Acts discreditable. A licensee shall not commit an act that reflects adversely on his fitness to engage in the practice of public accountancy.
- Rules Title 288: Chapter 5 007.05 Communications. Any requested response to a communication from the Board shall be within thirty (30) calendar days of the receipt of the communication.

On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Titus, and Skiles voted aye. Members Thornburg and Zacharia were absent. Motion #21 carried.

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13. Public Comment Period

William Ezzell and Beth Rader, Deloitte and Touche, USA LLP were present to report on and answer questions regarding the request to license a firm in Nebraska. Dan Vodvarka, President, and Ed Fitzgerald, member of the Nebraska Society of CPA's were also present.

14. Executive Directors' Report

- A. Computer System Issues.** The Executive Director reported that we were able to replace three computers with much newer models with limited funds expended. No proposal has been received from NOL. Member Skiles reported on his research regarding software programs available for the office.
- B. NBPA Budget.** Executive Director Sweetwood updated the Board on the budget.
- C. Staffing & General Office Issues.** Staff evaluations were completed. Performance cards have been coming in and will be compiled with Chair Gaines.
- D. Report on To Do List.** The updated To Do list will be included with the meeting minutes to the Board.
- E. Other Miscellaneous Items.** The Executive Committee has reviewed the office space comparisons prepared by Department of Administrative Services. The recommendation is to remain in the Apothecary. A five-year lease will be signed.

15. New Business

- A. National Association of State Boards of Accountancy (NASBA) Items**
 - 1.) Proposed Rules to Accompany Uniform Accountancy Act. The Rules were discussed.
 - 2.) NASBA Committee Interest Form. Board members were encouraged to submit their interest forms to the Executive Director who would send them to NASBA all in one packet.
- B. Other Miscellaneous Items.** There were no other items.

6. Report of the Licensing Committee

- B. Approval of Reinstatements.** Moved by Nuckolls, seconded by Titus to approve the Reinstatements. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Titus, and Skiles voted aye. Members Thornburg and Zacharia were absent. Motion #22 carried.
- I. Miscellaneous Items.** Moved by Titus, seconded by Graf that CPE deficient permit holders not be issued active permits to practice. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Titus, and Skiles voted aye. Members Thornburg and Zacharia were absent. Motion #23 carried.

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16. Adjournment

Moved by Titus, seconded by Graf, that the Board adjourn at 11:36 a.m. on Tuesday, May 4, 2004. On roll call vote, Members Gaines, Graf, Fuhrman, Nuckolls, Titus, and Skiles voted aye. Members Thornburg and Zacharia were absent. Motion #24 carried.

Respectfully submitted by,

Dean Graf
Acting Board Secretary